

**BRIGHAM CITY PLANNING COMMISSION MEETING
TUESDAY, NOVEMBER 04, 2008 – 6:30 PM
BRIGHAM CITY COUNCIL CHAMBERS**

PRESENT:	Joan Peterson	Chairperson
	Barbara Poelman	Vice Chairperson
	Deon Dunn	Commissioner
	Paul Fowler	Commissioner

ALSO PRESENT:	Mark Bradley	City Planner
	Eliza McGaha	Secretary

EXCUSED:	Ruth Jensen	City Council Liaison
	Reese Nielsen	Commissioner
	Lynda Berry	Commissioner
	Roger Handy	Commissioner

AGENDA:

WORK SESSION – AGENDA REVIEW

REGULAR MEETING

PLEDGE OF ALLEGIANCE

APPROVAL OF WORK SESSION MINUTES AND REGULAR MEETING MINUTES

PUBLIC COMMENT (*Per Utah Code, will receive input only, no decision can be made*) for items not listed on the agenda.

PUBLIC HEARING ² / APPLICATION #3073 / AMENDMENT OF K.E.B. SUBDIVISION, LOT 1, BY DIVIDING LOT 1 INTO TWO LOTS / 75 SOUTH 1000 WEST / SCOTT BESSINGER

CONTINUATION OF APPLICATION #3074 / AMENDMENT TO TITLE 29 ZONING ORDINANCE BY ADDING PARAGRAPH B TO CHAPTER 29.01.050 CONFLICT / PAUL MORRIS

CONTINUATION OF APPLICATION #3075 / AMENDMENT TO TITLE 25 SUBDIVISION ORDINANCE BY ADDING PARAGRAPH B TO CHAPTER 25.01.03 FINAL PLAT REQUIRED BEFORE LOTS MAY BE SOLD / PAUL MORRIS

DISCUSSION:

REGULAR MEETING:

Barbara Poelman opened the regular meeting at 6:30 p.m. Paul Fowler led the Pledge of Allegiance.

APPROVAL OF WORK SESSION MINUTES AND REGULAR MEETING MINUTES:

MOTION: A motion was made by Paul Fowler to approve the October 07, 2008 work session minutes. The motion was seconded by Barbara Poelman and passed unanimously.

MOTION: A motion was made by Paul Fowler to approve the October 07, 2008 regular meeting minutes. The motion was seconded by Barbara Poelman and passed unanimously.

MOTION: A motion was made by Barbara Poelman to approve the October 21, 2008 work session minutes. The motion was seconded by Deon Dunn and passed unanimously.

MOTION: A motion was made by Barbara Poelman to approve the October 21, 2008 regular meeting minutes. The motion was seconded by Deon Dunn and passed unanimously.

PUBLIC COMMENT (*Per Utah Code, will receive input only, no decision can be made*):

There was no public comment.

PUBLIC HEARING ² / APPLICATION #3073 / AMENDMENT OF K.E.B. SUBDIVISION, LOT 1, BY DIVIDING LOT 1 INTO TWO LOTS / 75 SOUTH 1000 WEST / SCOTT BESSINGER:

There are two existing access approaches into the property. The applicant would like to divide the property and construct two commercial service buildings with storage bays for equipment and supplies for those buildings, which is a permitted use that would be reviewed by Staff. There is just under a half acre on lot 2 and just over a half acre on lot 1.

The Commissioners commented that they would like to see an improvement on the aesthetics of the proposed building and landscaping. They would like to see commercial grade trees, nursery stock trees, in commercial areas, as well as shrubbery and medium sized plants. Mr. Fowler commented that in a past meeting the Commission passed a motion for Staff to provide some guidelines with minimum criteria for landscaping on commercial lots. Mr. Bradley suggested the best thing to do would be to put a standard for landscaping in the ordinance for that zone. He suggested that language could be included with the update of the zoning ordinance to better refine the detail of the landscape requirements. The design guideline is for the overall master plan of the area.

In regards to the improvements, the sidewalk is already in on 1000 West. The only area the applicant will not be improving is the area on 100 South because of a deferral.

MOTION: A motion was made by Barbara Poelman to open the public hearing for application #3073. The motion was seconded by Deon Dunn and passed unanimously.

There was no public comment.

MOTION: A motion was made by Barbara Poelman to close the public hearing for application #3073. The motion was seconded by Deon Dunn and passed unanimously.

MOTION: A motion was made by Paul Fowler to forward application #3073 to the City Council with a recommendation to approve subject to the applicant meeting all Staff recommendations, must comply with the listed stipulations of Chapter 25.05.01 Amendment to Subdivision Plot, must comply with Utah Code 10-9a-608 Vacation or Changing a Subdivision, that the applicant comply with Staff evaluation, such use will not under any circumstances of the particular case be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity, such use is

in compliance with the Brigham City General Plan. This area is subject to the design guidelines of the Brigham City Forest Street development area. The motion was seconded by Deon Dunn and passed unanimously.

MOTION: A motion was made by Paul Fowler for a two minute recess. The motion was seconded by Deon Dunn and passed unanimously.

Ms. Peterson called the meeting back to order.

CONTINUATION OF APPLICATION #3074 / AMENDMENT TO TITLE 29 ZONING ORDINANCE BY ADDING PARAGRAPH B TO CHAPTER 29.01.050 CONFLICT / PAUL MORRIS:

Staff was asked to incorporate additional language in the proposed text to address the process. Staff conducted research on this and it was found that development agreements were generally developed and recognized in a separate provision rather than in the conflict area. This will be unique as the language will be in the conflict provision of the ordinance. Each city that was researched had conflict language in dealing with the zoning ordinance and other agreements and they each handled them differently. Because of the nature of the request and the outcome the applicant is seeking, Staff felt that both of those goals could be accomplished.

Mr. Bradley stated that the applicant provided language to address what the Planning Commission had asked for in the previous meeting. The City Council will have the sole authority to enter into development agreements. To approve a development agreement, the City Council may request a review and recommendation from the Planning Commission regarding the land use provisions of the development agreement. The City Council shall consider a request for development agreement from a property owner of a commercial property that is at least 40-acres. At its sole discretion, the City Council may choose to consider, but is not required to, a request to enter into a development agreement with a property owner of less than 40-acres.

The purpose of a development agreement is for that applicant to establish an agreement, up front, that will give them vesting of zoning and uses so a developer does not have to worry about losing any investments due to the City making some kind of change to the ordinances. Most development agreements are tied to a City's current process. Mr. Bradley read and explained the differences between the applicants proposed language and what the Staff was comfortable with. Staff excluded the requirement of acreage and simply stated that development agreements can be entered into and how conflicts will be addressed. The City Council will decide what an appropriate use of a development agreement will be.

Paul Morris came forward and stated that he was comfortable with what was being proposed. The reason they suggested 40-acres is that they are under some time constraints where they have opportunities with certain users and they are trying to get the development agreement done so they can show it to those users to show that the City is committed and things are in line to move along. He said they suggested the 40-acre limit to open the door a little because they are more Staff, Planning Commission, and City Council intensive because a contract is being negotiated. Applications will still need to meet the minimum requirements and codes regardless of a development agreement.

Mr. Morris stated that in the development agreement draft they will be submitting, they have vested rights in the existing zoning ordinance, uses, requirements, and design standards to which they will be complying with but it will give them the security that the rules will not change so they can get businesses to make the financial decision to locate in Brigham City. The language vests in Brigham City's general commercial zone with Brigham City's uses and design guidelines that have already been adopted with the only change being the subdivision process of metes and bounds, which has not been done in Brigham City before. In a metes and bounds subdivision process, the road, utilities and such

still have to be designed in compliance with everything and go through an administrative approval process but it does not go through the traditional lengthy subdivision process. He said that as part of the project is in Perry City, he would like the agreements to be consistent. Perry City would like the subdivision process to be done within one year of a lot being sold so there is a mylar with the plat shown, and within that one year the developer has 18-months to go through the process to get it recorded. That process is how it was done in West Valley City which worked very well down there. He said they are trying to get away from the traditional subdivision process because typically by the time the lots are divided into what is wanted for each individual business, the process has taken so long that the sale has been lost and the business has moved on to another location.

MOTION: A motion was made by Paul Fowler to forward application #3074 to the City Council with a recommendation to approve with the stipulations that it is following the Staff's supportive request and the language that the City Staff has put together, as an option of language, that the copy that gets forwarded to the City Council has the spelling and grammatical corrections in place. The motion was seconded by Barbara Poelman and passed unanimously.

CONTINUATION OF APPLICATION #3075 / AMENDMENT TO TITLE 25 SUBDIVISION ORDINANCE BY ADDING PARAGRAPH B TO CHAPTER 25.01.03 FINAL PLAT REQUIRED BEFORE LOTS MAY BE SOLD / PAUL MORRIS:

In the applicant's revision of the proposed language addition, they have proposed letter B dealing with the subdivision of land and Staff thought it would be appropriate to leave in the language of 40-acres. The site plan, subdivision approval, and recording process may be established in a development agreement entered in between a property owner and the City, to the extent that there is inconsistency between this ordinance and the approval of the recording processes contained in a development agreement, the development agreement shall prevail. There is a State law that allows subdivisions under 10 lots to be done by metes and bounds. Additional language has been added to clarify the process as requested by the Commission at the previous meeting.

Mr. Morris stated that they were fine with this portion also and suggested some minor grammatical changes. He said he would suggest striking the portion of the statement in the subdivision ordinance that reads, 'to the extent permitted by law' because one is always permitted by law to be in compliance with State and Federal law. He said they did like the fact that site plan, subdivision approval and recording process was added because some of what they will do may not be a subdivision. As an example, he said they might do metes and bounds for a big box retailer and they may lease a portion of ground to another retailer, which is very common. He said they liked the fact that the language of site plan and subdivision were included because not all of the site plan reviews will involve a subdivision.

Mr. Morris stated that when they sell the property by metes and bounds, it starts the clock running and within one year of having sold by metes and bounds they will have to come in and file a subdivision plat with the City to get it recorded. This is to streamline the ability to get tenants to Brigham City.

MOTION: A motion was made by Barbara Poelman to forward application #3075 to the City Council with a recommendation to accept with the changes that were mentioned in the grammar to exclude in part B-1 'to the extent permitted by law'. The motion was seconded by Paul Fowler. Discussion: Mr. Fowler asked if the language that is being forwarded to the City Council in this case is the Staff's language. Ms. Poelman stated she would like to have that amended to the motion.

The motion passed unanimously.

DISCUSSION:

There was no discussion.

MOTION: A motion was made by Barbara Poelman to adjourn. The motion was seconded by Paul Fowler and passed unanimously.

The meeting adjourned at 7:38 p.m.

This certifies that the regular meeting minutes of November 04, 2008 are a true and accurate copy as approved by the Planning Commission on November 18, 2008.

Signed: _____
Jeffery R. Leishman, Secretary